

***United States Court of Appeals  
for the Second Circuit***



**SUPPLEMENTAL  
APPENDIX**



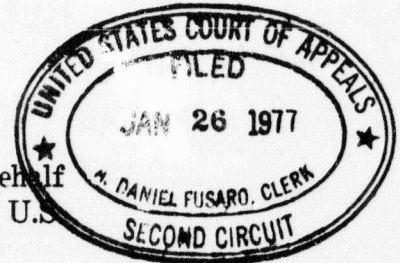


76-6154

**United States Court of Appeals**

**FOR THE SECOND CIRCUIT**

**Docket No. 76-6154**



CADET TIMOTHY D. RINGGOLD, Individually and on behalf  
of all other similarly situated cadets of the U.S.  
Military Academy,

*Plaintiffs-Appellants.*

—v.—

THE UNITED STATES OF AMERICA, MARTIN R. HOFFMAN,  
as Secretary of the Department of the Army, LT.  
GEN. SIDNEY B. BERRY, as Superintendent of the  
USMA, BRIG. GEN. WALTER F. ULMER, Commandant  
of Cadets, USMA, CADET WILLIAM ANDERSEN, as  
outgoing Chairman of the USMA Honor Code Board  
Committee, and CADET MICHAEL IVY, as incoming  
Chairman of the USMA Honor Code Board Com-  
mittee,

*Defendants-Appellees.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

**SUPPLEMENTAL APPENDIX**

ROBERT B. FISKE, JR.,  
*United States Attorney for the  
Southern District of New York,  
Attorney for Defendants-Appellees.*

NATHANIEL L. GERBER,  
KENT T. STAUFFER,  
*Assistant United States Attorneys,  
Of Counsel.*

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ADN-C

A 1  
28 December 1976

Mr. Timothy D. Ringgold  
2422 W. Angela Drive  
Phoenix, Arizona 35023

Dear Mr. Ringgold:

I have received your letter of 20 December inquiring about application for readmission to the U.S. Military Academy. I have forwarded a copy of that letter to the Adjutant General, USMA, who will determine your eligibility under the present regulations.

If you are in fact eligible for readmission, the Adjutant General will inform you of the procedures for applying and will forward your application to the Special Readmissions Committee for consideration.

Sincerely,

JACK L. CAPPS  
Colonel, USA, Professor  
Chairman, Special Readmissions Committee

Incl 1-2

1 1-1

20 DEC 1976

A

2

Col. Capps  
Dept. of English  
U.S.M.A.  
West Point, New York 10996

Dear Col. Capps;

As a member of the class of 1977, U.S.M.A., I resigned from the Corps of Cadets during and because of the controversy of EE304. I wish to make application for readmission under the provisions of the Secretary of the Army's plan. I spoke with Col. Rhyne last Friday and he suggested that I contact you.

Your assistance and consideration will be greatly appreciated.

Sincerely,

Timothy D. Ringgold

P.S. I have requested assignment with an active component of the Regular Army beginning after the Christmas holidays.

Timothy D. Ringgold x-7777145  
26-98-2946

2422 W. Angela Drive  
Phoenix, AZ 85023

(602) 942-0260



DEPARTMENT OF THE ARMY  
HEADQUARTERS UNITED STATES MILITARY ACADEMY  
West Point, New York 10996

A 3

ORDERS 55-5

17 September 1976

RINGGOLD, TIMOTHY D 526-98-9946 (7777145) CADET C1 of 77 USCC USMA  
West Point NY 10997

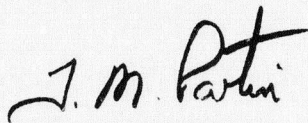
You are relieved from active duty, not by reason of physical disability, transferred or returned to the Army National Guard/United States Army Reserve status and/or assigned as indicated on date immediately following release from active duty. Any temporary appointments held are terminated on your effective date of release.

Effective date (release from active duty): 1 September 1976  
Assigned to: USA Control Group (REINF) RCPAC St Louis MO 63132  
Component: USAR

Military Selective Service Act obligation: 6 years

Additional instructions: Pursuant to authority contained in 5th Ind HQ DA (DAPC-OPP-PM) ALEX VA dated 1 September 1976 and by order of the Secretary of the Army Cadet Ringgold is separated from the US Military Academy. Cadet's name will be dropped from all rolls. Movement designator code: 7G07T  
Format: 523

FOR THE SUPERINTENDENT:



T.M. PARTIN  
MAJ, AGC  
Deputy Adjutant General

DISTRIBUTION:

- 1-Ofc of Instl Rsch
- 1-DCSOPS
- 3-S4 HQ USCC
- 3-AG MILPO
- 1-Ofc of the Dean (Cadet Rec Sec)
- 1-Dental Surgeon MEDDAC
- 2-Ofc of Admissions (Records)
- 1-Treas USMA
- 1-ACC Rm 142F
- 5-Admin Svc Br AGD
- ~~1-SJA USMA~~
- 2-FAO (Pay Sec)
- 10-Cadet Records USCC (for further distribution to individual via certified mail)
- 3-HQ DA (DAPC-OPP-PM) 200 Stovall St ALEX VA 22332
- 6-Cdr USAAC 9700 Page Blvd St Louis MO 63132



A 4

UNITED STATES CORPS OF CADETS  
WEST POINT, NEW YORK 10996

17 August 1976

SUBJECT: Resignation

Tactical Officer  
Company E, 1st Regiment  
United States Corps of Cadets  
West Point, New York 10996

1. I, Timothy D. Ringgold, do hereby voluntarily tender my resignation from the United States Military Academy. My reasons for resigning are as follows:

a. I have suffered irreputable damage to my future as a cadet and potential army officer because of my unusual involvement in the EE 304 cheating controversy.

b. Even though I was never formally charged with a violation of the Cadet Honor Code, I was subjected to isolation in Transient Barracks, deprived of my rank and position and not permitted to wear my class ring.

c. I was forced to testify against my peers in violation of my rights under the Fifth Amendment of the Federal Constitution and Article 31 of the Uniform Code of Military Justice.

d. I have been threatened with criminal prosecution without any foundation in fact.

2. I understand that if this resignation is accepted, I may be transferred to the Reserve Component in an enlisted status and ordered to active duty for not less than two years. I request that a waiver of the two year active duty requirement be given for the above mentioned reasons and because of the expiration of my former three year enlistment obligation in the Regular Army.

3. I understand that I may not be appointed to a commissioned grade in a regular component of the United States Army, Navy, Marine Corps, or Air Force, prior to the commissioning date of my current class at the United States Military Academy.

. I agree to liquidate any indebtedness that I may have to the Treasurer, United States Military Academy, as soon as possible after my account is settled and a final statement rendered.

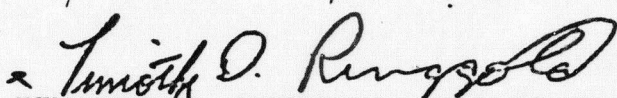
17 August 1976

SUBJECT: Resignation

5. I am 23 years of age. My parents have knowledge of my resignation.

6. I understand that prior to being forwarded to Department of the Army, this resignation may be withdrawn only with the approval of the Superintendent and thereafter with the approval of Headquarters, Department of the Army.

7. I have retained a copy of this resignation.

  
TIMOTHY D. RINGGOLD, 526-98-9946  
Company E-1, Class of 1977  
United States Corps of Cadets



**Letter dated November 12, 1976, from the Secretary  
of the Army to the Superintendent of the Academy**

**SECRETARY OF THE ARMY**

**WASHINGTON**

12 November 1967

Dear General Berry:

Earlier this week, the Corps of Cadets approved new procedures for the Cadet Honor System. Since you have endorsed the Corps action, the attached change to Regulations, USMA is approved.

Sincerely,

(Signed) Martin R. Hoffman  
Martin R. Hoffman

LTG Sidney B. Berry  
Superintendent  
United States Military Academy  
West Point, New York 10996  
Supt SGS  
Commandant Dean  
Chief of Staff  
SJA COL RHYNE  
DCSCOMPT

**Army Regulation § 16.03, as Amended, Effective  
November 12, 1976**

**16.03. PROCEDURES FOR COURT-MARTIAL, BOARD OF OFFICERS, FULL HONOR BOARDS OR RESIGNATION**

a. A cadet who is subject to separation or punitive action under the provisions of Article 12 of this regulation, except paragraph 12.16, may, in the discretion of the Superintendent, be tried by court-martial if the conduct includes a violation of the Uniform Code of Military Justice, be brought before a board of officers convened by the Superintendent, be brought before a Full Honor Board convened by the Commandant of Cadets, or be permitted to resign in lieu thereof. In the event of trial by court-martial, the action taken will be in accordance with the provisions of the Uniform Code of Military Justice, the Manual for Courts-Martial (U.S.), and applicable regulations. Conduct which constitutes grounds for separation under the provisions of Article 9 and 12 of this regulation may be investigated conjunctively or alternatively, as appropriate, at a single hearing of the Board of Officers.

16.03b. Boards of Officers will be convened by the Superintendent under provisions of these regulations and AR 15-6. If the cadet appears before a Board of Officers, the board shall normally consist of one Colonel who shall be the president and at least two other field grade officers who shall be voting members. For good cause shown, the Superintendent may modify the grade restriction for the members. The board will make findings with respect to the matter under investigation and, if appropriate, will make recommendations concerning separation from the Military Academy, discharge from the Army, and the type of discharge. The board may consider the cadet's prior conduct and any part of his military service that



it deems pertinent. The board will submit a report of its proceedings and its findings and any recommendations to the Superintendent.

16.03c. Full Honor Boards will be convened by the Commandant of Cadets under the provisions of the Cadet Honor Committee Procedures and AR 15-6. Cadet Honor Committee Procedures must be approved by the Superintendent. Copies of such procedures and amendments thereto will be forwarded for information to Headquarters, Department of the Army, and will reference this Article and paragraph.

16.03d. Records of proceedings before Boards of Officers will be forwarded to the Superintendent. Records of proceedings before Full Honor Boards will be reviewed by the Commandant of Cadets and forwarded to the Superintendent with recommendations. Prior to action by the Superintendent on the findings and recommendations of a Board of Officers or a Full Honor Board, the cadet concerned will be provided an opportunity to review all the relevant material in the file, subject to security standards and questions of privilege. The cadet will be permitted to rebut any adverse evidence and to submit any statement or relevant evidence he desires. His submission will be reduced to writing and incorporated into the file. The Superintendent will review the record and other matters submitted by the cadet and will take his action accordingly. If the action includes a recommendation for separation the case will be processed in accordance with paragraph 16.04 of this regulation.

16.03e. Cadets subject to elimination under this regulation may submit a resignation from the Military Academy at any time prior to final approval of his separation. The resignation shall be in lieu of trial by court-martial, Board of Officers, or a Full Honor Board. Format and procedures for processing such resignations will be as determined by the Superintendent.



16.03e(1) If a resignation submitted under the provisions of this paragraph may result in the issuance of a less than honorable discharge certificate, the resignation will include acknowledgment of same together with a statement by legal counsel that he has advised the cadet of the meaning and effect of the discharge and his rights with respect to the action contemplated.

16.03e(2) A cadet may withdraw his tender of resignation upon approval of the Superintendent until such time as it is forwarded to Headquarters, Department of the Army. Thereafter, it may be withdrawn only upon approval of Headquarters, Department of the Army.

16.03e(3) A cadet who tenders a resignation under the provisions of this paragraph may submit statements in his own behalf. Prior to submitting the letter of resignation, the cadet concerned will be afforded the opportunity to consult with legal counsel. Upon request, military counsel will be appointed by the Staff Judge Advocate. Civilian counsel may be retained at the cadet's expense.

16.03f. No cadet will be considered for separation pursuant to these regulations because of conduct which has been the subject of judicial proceedings or administrative proceedings under the provisions of Articles 9 or 12, and 16, these Regulations, when the results of those proceedings constitutes an acquittal, a determination tantamount to an acquittal, or a final administrative determination not substantiating the allegation or issue upon which the subsequent action is based. These limitations are not applicable when:

(1) There has been a finding of not guilty by a court-martial, and the subsequent action is initiated under the Cadet Honor Committee Procedures; or

(2) It is subsequently discovered that the proceedings were tainted by fraud or collusion, or by like misconduct by a board member, or if substantial new incriminating evidence is subsequently discovered which, despite the exercise of due diligence, was not available to the Board before it reached its decision.

16.03g. Hearings by Boards of Officers and Full Honor Boards will be closed to the public at large. Department of Defense personnel with official interest in a proceeding, cadets, and members of the respondent's family normally will be permitted to attend the hearing. Other persons may be admitted to observe a proceeding in the discretion of the convening authority where their attendance would not have an adverse effect on the fairness and dignity of the proceeding or the respondent's right of privacy.



CADET HONOR COMMITTEE  
UNITED STATES CORPS OF CADETS  
West Point, New York 10997

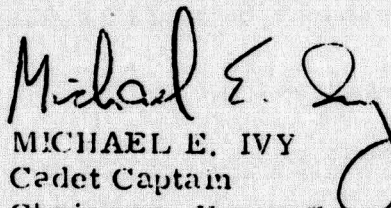
19 November 1976

MEMORANDUM FOR: See Distribution

SUBJECT: Cadet Honor Committee Procedures

1. Reference: Booklet, Honor Committee Procedures, dated 29 January 1976.
2. Effective 9 November 1976, the United States Corps of Cadets voted to change Honor Committee procedures. New procedures for processing all honor cases, now or hereafter referred to the Honor Committee, are attached as Inclosure 1. Pending the complete revision of reference 1, the procedures at inclosure 1 rescind Sections II, III, and VI of that reference.
3. These procedures have been approved by the Superintendent as required by Regulations, USMA, paragraph 16.03.

1 Incl  
as

  
MICHAEL E. IVY  
Cadet Captain  
Chairman, Honor Committee

DISTRIBUTION:

- 3 Superintendent
- 2 Dean
- 3 Commandant
- 10 Special Assistant for Honor Matters
- 25 Staff Judge Advocate
- 88 Cadet Honor Committee
- 1 ea Brigade and Regimental Staff
- 1 ea Cadet Company



# **A. THE CADET HONOR CODE:**

The Cadet Honor Code states that "A cadet will not lie, cheat, or steal, nor tolerate those who do." There are two criteria which an act must meet to be an honor violation:

1. the accused cadet must have lied, cheated, stolen, or tolerated such action on the part of another cadet; and
2. the accused cadet must have had the intent to lie, cheat, steal, or tolerate such action on the part of another cadet.

## **B. PRELIMINARY INVESTIGATION: (See ANNEX A, INSTRUCTIONS TO INVESTIGATORS)**

1. When an alleged honor violation is reported to a Company Honor Representative:

a. If the accused cadet is in his company, he will notify his particular Regimental Honor Representative immediately that an honor investigation is pending in his company and inform him of all details of the suspected violation. If the individual in question has not been notified that he is under investigation, the Company Honor Representative should notify him at this time.

b. If the accused cadet is in another company, he will notify the Company Honor Representative of the company involved and inform him of all details of the alleged violation. The Honor Representative of the company involved will immediately comply with paragraph 1. a. above.

c. If at any time an Honor Representative or Cadet Investigator questions an accused cadet, he will first briefly explain the nature of the alleged violation and advise the accused cadet of his rights. The procedures stated in ANNEX B, QUESTIONING THE ACCUSED must be followed. If the Company Honor Representative believes an honor violation has not occurred, he may drop the matter. (Paragraph C. 8. applies regarding notification.)

2. Normally, the Cadet Investigator is the Regimental Honor Representative of the Regiment of the accused cadet. The Chairman of the Honor Committee may at his discretion appoint another cadet to investigate an alleged honor violation.



3. If the alleged violation involves academic cheating, the Regimental Honor Representative will notify the honor liaison cadet for that department. The honor liaison cadet will notify the department honor liaison officer, inform him of all details of the possible violation, and assist the Cadet Investigator in his investigation. The Regimental Honor Representative will insure that the Company Honor Representative has been informed of the case.

4. The Cadet Investigator will immediately open and maintain a case folder to contain all notes, statements, and evidence concerning the possible violation.

### C. INVESTIGATION:

1. Whenever a Cadet Investigator questions any individual concerning an alleged honor violation, he will insure that an impartial third party is with him to act as a witness. Detailed notes will be taken of everything that is said and will be included in the case folder. NOTE: Whenever any investigation is taking place, the Cadet Investigator will be in a complete, neat, and proper uniform.

2. Before confronting the accused cadet, the Cadet Investigator will interview every other individual, if reasonably possible, who has, or might possibly have, any knowledge of the suspected violation. The investigator will gather all evidence and evaluate every detail of available information. Witnesses, other than the accused cadet, who are questioned need not be advised of their rights unless they, too, are or become suspected of an honor violation during the course of the investigation. The Cadet Investigator will cause a written statement to be prepared and then signed by respective witnesses. It is imperative that investigators thoroughly and carefully investigate all aspects of the possible violation to include aspects favorable to the accused cadet.

3. If at this stage the matter merits further investigation the Cadet Investigator will then confront the accused cadet and follow these procedures:

a. Briefly explain the nature of the alleged violation and advise the accused cadet of his rights. There must be due regard for the rights of the accused at all times. The procedures stated in ANNEX B, QUESTIONING THE ACCUSED, must be followed.

b. If the accused cadet is willing to make any statements, the Cadet Investigator will ask him questions concerning specific details of the possible violation. All additional information given by him will be included in the written statement prepared and signed by the Cadet Investigator.



c. If the accused cadet will give an oral but not a written statement, the Cadet Investigator will prepare and sign a written statement of the accused cadet's oral testimony with the help of the impartial witness who was present. If the accused cadet is willing to submit a written statement, the Cadet Investigator should ask him to prepare and sign a written statement explaining all that he knows of the suspected violation.

If the accused cadet is willing to make his statement (written or oral) under oath, the appropriate personnel in the Office of Staff Judge Advocate should be contacted to administer the oath and take the statement. It is essential to note that the accused cadet is under no obligation at any time to make any statement with respect to the violation of which he is accused. Even if an accused cadet initially elects to make a statement or to answer questions, he may cease doing so at any time at his own option. No adverse inference may be drawn from the silence of the accused cadet.

4. If on the basis of the evidence gathered in the investigation, the Cadet Investigator decides that further investigation is necessary, he will notify the Regimental Honor Representative (if applicable) who will make arrangements to convene a Sub-Committee. Before arrangements for a Sub-Committee are made, however, the Cadet Investigator will notify the Vice Chairman for Investigations who will consult with appropriate personnel in the Office of the Staff Judge Advocate to seek guidance on the legal merits of the case.

5. If, on the basis of the evidence gathered in the investigation, the Cadet Investigator believes that an honor violation has not occurred and decides that a Sub-Committee is not necessary, he will forward the case folder on the suspected violation to the Vice Chairman for Honor Investigations. The Vice Chairman for Honor Investigations will review the notes, statements, and evidence contained in the folder and if he concurs with the decision of the Cadet Investigator, he will approve the recommendation. If the Vice Chairman does not agree with the decision of the Cadet Investigator, he will consult the Chairman. If the Chairman agrees with the Cadet Investigator, the case will be dropped. If the Chairman agrees with the Vice Chairman that the case should not be dropped, he will direct the Regimental Honor Representative to initiate a Sub-Committee. Except in cases dropped by Company Honor Representatives (para B. 1. e.) no one will tell an accused cadet that an investigation has been dropped until the Vice Chairman for Honor Investigations or Chairman, as appropriate, has made his decision. Following a decision not to forward a case for further consideration, all parties



involved in the case will be notified by the Regimental Honor Representative and the honor liaison cadet.

6. If there is a possibility that the case involves a major disciplinary offense as defined by paragraph 12.15, Regulations, USMA, the Commandant will be informed of the case by the Chairman. A major disciplinary offense is one that is punishable under the UCMJ by confinement for a term of six months or more such as larceny and fraud. If the Superintendent or his designee determines that the case involves a major disciplinary offense and should be processed under paragraph 12.15, cadet honor inquiries will be suspended until the case has been finally disposed of under military law or Regulations, USMA. Thereafter, Honor Committee inquiries may proceed, subject only to the limitations contained in Article 16.03, Regulations, USMA.

7. The Secretary of the Honor Committee or Regimental Honor Representative will notify the accused cadet in writing of all decisions concerning the disposition of his case.

8. Whenever a case is finally decided, the individual who reported the offense will be notified by the Company Honor Representative or Academic Liaison Cadet. For all alleged violations reported by members of the Staff and Faculty, the Special Assistant to the Commandant for Honor Matters will be notified by the Vice Chairman when a case is dropped.

#### D. SUB-COMMITTEE:

1. The Regimental Honor Representative will determine the time and place to conduct the Sub-Committee hearing. He, also, will be responsible for supervision of all aspects of the Sub-Committee hearing, including selection of Sub-Committee members and initiation of the proceedings. Investigations will be conducted on a non-adversary basis. Questioning will not be unduly prolonged and will avoid any element of coercion, duress, or undue influence.

2. The Sub-Committee will be constituted by two impartial Company Honor Representatives and three members of the Corps at large from the accused cadet's own class. A rotating roster of first and second class honor representatives will be used; in each regiment the Regimental Honor Representative will consult the roster, starting with the first name on the list and proceeding until he has two qualified members. At least one member shall be a first class Honor Representative and shall be designated as the president of the Sub-Committee. Other members of the Sub-Committee will be selected from randomly distributed class rosters provided to each Regimental Honor Representative by the Secretary of the Honor Committee.



No member of the Sub-Committee will be from the company of the accused cadet. Normally, no two members of the Sub-Committee will be from the same company.

If a Sub-Committee is convened during Cadet Basic Training or at any other time during a transitory state within the Corps, it will be left to the Chairman's discretion as to how the fairest Sub-Committee may be constituted. If a case should arise that would create difficulty due to the relative technical knowledge necessary to comprehend the facts of the particular case, the Chairman has the power to recommend to the Regimental Honor Representative how this Sub-Committee should be constituted. However, there must always be five voting members.

3. The Regimental Honor Representative will notify all members of the Sub-Committee of the time, place, and uniform for the hearing. The accused cadet and all witnesses will be notified in writing at least three working days in advance. These letters will be added to the case folder. (See ANNEX D and E for examples of form letters required for the accused cadet and witnesses).

4. The Sub-Committee hearing will be conducted in the following manner:

a. Normally a first class Honor Representative will act as the President of the Sub-Committee. At a date designated by the Chairman of the Honor Committee, second class honor representatives may assume the duties of graduating first classmen.

b. Before any evidence is considered, the accused cadet will be given the opportunity to challenge members of the Sub-Committee for cause. The President of the Sub-Committee will rule on all challenges except to himself, in which case an affirmative vote of at least two other members of the Sub-Committee will be required to sustain the challenge. After challenges are resolved, the accused cadet will be excused until called as a witness. If any member of the Sub-Committee is successfully challenged for cause, the hearing will recess until the Sub-Committee can be reconstituted with five voting members.

c. The Cadet Investigator will, in an impartial manner, brief the Sub-Committee on the basic facts gathered during the investigation, and will instruct the Sub-Committee that the accused cadet is under no obligation to make any statements or answer any questions.

d. The Sub-Committee will question any individual who might have knowledge of the suspected violation. If a witness has made any



prior statements which have been reduced to writing, he should read them through; any changes will be made in writing and recorded separately. All independent physical evidence should be considered at this time.

e. Before the accused cadet is questioned, he will again be informed of the nature of the alleged violation and advised of his rights. The procedures stated in ANNEX B, "QUESTIONING THE ACCUSED," must be followed. However, in the event the accused cadet has not previously signed a "RIGHTS OF THE ACCUSED FORM," (ANNEX C), he will be requested to do so at this time. If the accused cadet elects to remain silent, no adverse inference may be drawn from his silence.

f. The accused cadet will be shown the copy of his original statements, if any, concerning the suspected violation and will be asked to read it aloud, make any corrections or additions, and to initial these corrections or additions.

g. At this time the accused cadet may orally recite any additional facts pertaining to the suspected violation, or make a statement if he has not previously done so.

h. Members of the Sub-Committee may question the accused cadet after he has read his statement, or made his statement as the case may be.

i. Any new or conflicting information obtained during the Sub-Committee will be included in a written statement prepared and signed by the individual providing the information and added to the other documents in the accused cadet's folder.

6. After questioning, the accused cadet and any other individuals being questioned will be dismissed. The Sub-Committee will discuss, in closed session, whether the accused cadet should be brought before a Full Honor Board, and will submit its recommendation, based on a majority vote by secret written ballot, to the Chairman of the Honor Committee. This recommendation is advisory only and not binding on the Chairman. NOTE: All individuals involved, both officers and cadets, should be present, if reasonably possible, to give testimony and be questioned by the Sub-Committee during open session. In any case, the evidence considered should be of the highest quality reasonably obtainable. The purpose of the Sub-Committee is to determine if there is sufficient evidence that: a) the facts of the alleged act are true; and b) the accused cadet had the requisite intent to lie, cheat, steal or tolerate such action by another cadet. In other words, it is the Sub-Committee's purpose to establish whether there



are reasonable grounds to believe that an honor violation was committed by the accused cadet and that a Full Honor Board should hear the facts.

7. The Regimental Honor Representative will insure that all notes, evidence, and statements are in the case folder and will forward the folder to the Vice Chairman for Honor Investigations with the Sub-Committee findings and recommendations. If the Chairman decides not to bring a case before a Full Honor Board, all parties involved in the case will be so notified in writing.

8. If the Chairman decides that the accused cadet should go before a Full Honor Board, the Regimental Honor Representative will:

a. Notify the Vice Chairman who in turn will contact the Secretary of the Honor Committee. The Secretary will contact the Special Assistant to the Commandant for Honor Matters who will coordinate with the Staff Judge Advocate to secure the names of the detailed Counsel for the accused cadet, Recorder, and Legal Adviser. Additionally, the Special Assistant will coordinate with the Staff Judge Advocate, arrangements for the date, time, and place of the Honor Board and whether the accused cadet desires to exercise his right to hire civilian counsel at his own expense.

b. If academic cheating was involved, insure that the department honor liaison cadet notifies the appropriate Department Honor Liaison officer, and makes arrangements for members of the department to attend the honor hearing as witnesses.

c. The case folder at this time will be made available to both the Counsel for the accused cadet and the Recorder by the Vice Chairman for Honor Investigations.

9. The Secretary of the Honor Committee will:

a. Notify the accused cadet in writing that he is to be a respondent before a Full Honor Board and provide him all details in the form letter at ANNEX F.

b. Insure that the accused cadet has sufficient time (at least three working days) to prepare for his board.

c. Notify all witnesses in writing using the form letter at ANNEX G.

NOTE: All documents will be placed in the case folder before it goes



to a Full Honor Board.

d. Insure that all documents in the case folder have been made available to both Counsel for the accused cadet and the Recorder.

E. FULL HONOR BOARD:

1. Full Honor Boards will be comprised of twelve voting members, a legal advisor, a recorder, and the Cadet Investigator who is detailed as the assistant recorder. There will be four members of the Honor Committee and eight members of the Corps at large.

a. Except as stated in paragraph 1.d. below normally the breakdown of voting members will be as follows:

(1) Four members of Honor Committee

-two first classmen (four until the second class elects their committee)

-two second classmen (after that committee is elected)

(2) Eight members of the Corps at large from classes designated by the accused cadet. However, there must be at least two cadets from each of three classes.

b. Alternates will be appointed to sit as voting members should challenge be sustained at the Board or a cadet removed as a voting member for any other reason (e.g., illness, emergency leave). Two alternates designated by the President will be present at all sessions in the event they are required to sit as board members. Normally the breakdown of alternates to voting members will be as follows:

(1) Honor Representatives

-two alternates to include an alternate for the President.

(2) Members of the Corps at large

- six alternates (two from each of the three classes designated by the accused cadet)

c. No member of the Board will be from the company of the accused cadet. Normally, no two members of the Board will be from



the same company. The Chairman will be responsible for selection of prospective Board members and alternates from a randomly distributed class roster.

d. If a Board is convened during Cadet Basic Training, Cadet Field Training, or at any other time during a transitory state (e.g., June week) within the Corps, or if a case should arise that would create difficulty in selecting Board members due to the relative technical knowledge necessary to comprehend the facts of the case, the Chairman may recommend to the Commandant how the fairest Board may be constituted. The Commandant may approve this change even if it removes a particular class from the Board entirely. At a date designated by the Chairman of the Honor Committee, second class honor representatives may assume the duties of graduating first classmen. However, there must always be twelve voting members.

e. When a hearing is scheduled, the Secretary of the Honor Committee will submit to the Commandant, the convening authority, a proposed list of Board members and alternates (to include an Alternate President), Legal Advisor to the Board, Recorder and detailed Counsel for the accused cadet (the latter three will be legally qualified within the meaning of Article 27, UCMJ). One Board member on the list, normally a first class member of the Honor Committee, will be designated President of the Board in the appointing orders. The Legal Advisor, Recorder, and Cadet Investigator (Assistant Recorder) will be detailed without vote.

2. The Full Honor Board is a de novo proceeding and will be presided over by the President of the Board. The procedure for Full Honor Boards should follow those contained in ANNEX I as appropriate. This annex parallels the suggested procedure set forth in AR 15-6.

3. Before any evidence is considered, the accused cadet will be given an opportunity to challenge members of the Board for cause. The President of the Board will rule on all challenges except those to himself in which case an affirmative vote of a majority of the other members will be required to sustain the challenge.

4. The Legal Advisor may be called upon to advise on admissibility of evidence, arguments, motions or other contentions of counsel, procedures, and any other matter determined appropriate by the President of the Board. The President will rule on such questions in open session after consultation with the Legal Advisor. If, in the judgment of the Board President or the Legal Advisor, further consideration is necessary, either individual may order the session closed.



At such time additional arguments and advice may be rendered in the presence of the Board President, all members of the Board, the Legal Advisor, the Recorder, the Assistant Recorder, the Counsel for the accused cadet, and the accused cadet. After this time, the Board President will make a final ruling, subject to objection by any member of the Board. Upon objection by a Board member, the Board President and all members of the Board will enter into closed deliberation and the issue will be determined by a majority of the voting members.

5. Both presentation of evidence and arguments by the Recorder and Counsel for the accused cadet will be confined to two points:

- a. whether the facts of the alleged act are true; and
- b. whether the accused cadet had the requisite intent to lie, cheat, steal, or tolerate such action on the part of another cadet.

6. At the conclusion of the hearing the voting members of the Board will receive appropriate instructions from the Legal Advisor and the Board members will thereafter enter into closed deliberations.

7. The Board must then determine whether there is substantial evidence (i.e., such evidence as a reasonable mind can accept as adequate to support a conclusion) to support a finding that:

- a. the facts of the alleged act are true; and
- b. the accused cadet had the requisite intent to lie, cheat, steal, or tolerate such action on the part of another cadet.

8. The Board will vote by secret written ballot, and a verdict of guilty will require the guilty vote of at least ten of the twelve Board members. The ballots will be counted by a member of the Board designated by the President who thereafter will destroy the ballots.

9. The findings of the Board will be announced to the accused cadet by the President of the Board when the proceeding is reconvened.

10. An accused cadet found not guilty will continue as a cadet in good standing without prejudice.

11. If during the Board proceedings it becomes evident that there is evidence which may support another allegation which is materially different from the one under investigation, the Board will forward this



information to the Chairman of the Honor Committee for appropriate action.

12. A summarized record of the proceedings will be prepared by the Recorder unless the findings do not sustain the allegation. In that case, a written notice of that finding will be prepared by the President of the Board and forwarded through the Chairman of the Honor Committee to the convening authority.

13. Generally, AR 15-6, Procedure for Investigating Officers and Boards of Officers Conducting Investigations, will govern the investigation of alleged honor violations. In case of conflict between AR 15-6 and these procedures for Full Honor Boards, however, the latter will govern.

14. In cases resulting in a finding of a violation, a new Honor Board may be convened and the entire case reheard, if new evidence of an exculpatory nature, which probably would produce a result more favorable to the accused cadet, is discovered after the original hearing, and if the sanction has not been fully executed. If the cadet has been separated by Department of the Army, the Chairman of the Honor Committee will present the facts to the Commandant for further coordination prior to rehearing the case. In cases resulting in a finding that does not sustain the allegation, new Honor Committee proceedings may not be initiated with respect to the same alleged violation of the Honor Code except as permitted by the limitations set forth in Article 16.03, Regulations, USMA.



ANNEX AINSTRUCTIONS TO INVESTIGATORS:

**\*\*THE PRIMARY PURPOSE OF ANY INVESTIGATION IS TO ASCERTAIN FACTS AND REPORT THEM TO THE PROPER AUTHORITY. IT IS THE DUTY OF ANY INVESTIGATING OFFICER TO MAKE A COMPLETE AND IMPARTIAL PRESENTATION OF EVIDENCE ON BOTH SIDES, AND TO MAKE SUCH FINDINGS AND RECOMMENDATIONS AS MAY BE APPROPRIATE AND WARRANTED BY THE FACTS.**

Specific Procedures.1. Keep Detailed Records From the Outset.

-make complete notes on all information gathered and sources checked; record essential information on all inquiries made by telephone; keep copies of all correspondence and use appropriate accountability procedures with all mail.

2. Investigate The Source of The Allegation.

-clarify and evaluate all aspects of accusation; check details on time, place, and persons involved; determine reliability of source, whether first or second hand information, and whether other corroborative evidence is available.

3. Investigate Independent Sources of Evidence.

-verify from independent sources such essential facts as time, place, and persons involved in the alleged incident.

4. Gather All Available Physical Evidence From Sources Other Than The Accused Cadet.

-all documents, including recorded statements and sworn testimony, and physical items having some bearing on the incident should be evaluated.

5. Evaluate The Substantiality Of The Allegation.

-carefully consider all available evidence; if the allegation appears insubstantial, recommend that the case be dropped; if the allegation apparently has substance, proceed with the investigation.



6. Question The Accused Cadet, If Necessary.

-follow the procedures set forth in ANNEX B, QUESTIONING THE ACCUSED whenever questioning an accused cadet; where appropriate a case may be forwarded to a Sub-Committee without questioning the accused cadet before that time.

**\*\*KEEP IN MIND THAT AT NO STAGE IS AN ACCUSED CADET UNDER ANY OBLIGATION TO MAKE ANY STATEMENTS OR ANSWER ANY QUESTIONS; IF AN ACCUSED CADET ELECTS TO REMAIN SILENT THROUGHOUT THE ENTIRE INVESTIGATION AND SUBSEQUENT PROCEEDINGS, NO ADVERSE INFERENCE MAY BE DRAWN FROM HIS SILENCE.**

7. Re-Evaluate The Substantiality Of The Allegation.

-again carefully consider all available evidence, determine the substantiality of the allegation and take appropriate action with respect to convening a Sub-Committee.



ANNEX B**QUESTIONING THE ACCUSED**

Whenever any Honor Representative questions an accused cadet about an alleged honor violation, he will follow these procedures:

1. Insure that a third-party witness is present for the entire period of questioning. The witness will be informed that anything said during this time is to be treated as a confidential matter and will be discussed only in future Honor Committee proceedings.
2. State the nature of the alleged violation to the accused cadet and inform him of his rights as set forth in the RIGHTS OF THE ACCUSED FORM, ANNEX C, (hereafter referred to as the RIGHTS FORM), which will be read to the accused cadet by the Cadet Investigator.
3. Ask the accused cadet to read to himself the RIGHTS FORM.
4. Ask the accused cadet to sign the RIGHTS FORM (both copies) in the appropriate place to indicate that he has read and understands his rights.
5. Sign the RIGHTS FORM (both copies) in the appropriate place to indicate that it has been read to the accused cadet.
6. Ask the third-party witness to sign the RIGHTS FORM (both copies) in the appropriate place to indicate that it has been read to the accused cadet.
7. Give the accused cadet one copy of the RIGHTS FORM signed by all parties.
8. Ask the accused cadet if he is willing to answer any questions or to make any statements. If he is willing to do so, ask the appropriate questions and afford him an opportunity to make a statement. Take detailed notes at this time.
9. Ask the accused cadet if he is willing to reduce his statements to writing.
10. Ask the accused cadet if he is willing to make a statement (oral or written) under oath.
11. Inform the appropriate personnel in the Office of the Staff Judge Advocate if the accused cadet is willing to make a statement under oath.



ANNEX CRIGHTS OF THE ACCUSED FORM:

1. \_\_\_\_\_, you are under investigation for a possible violation of the Honor Code in that you allegedly
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
2. You have a right to remain silent. You need not answer any questions or make any statements at this time.
3. Anything you say may be used against you.
4. You have a right to legal counsel. You may retain a civilian attorney at your own expense. Otherwise, appointed legal counsel will be made available by the Office of the Staff Judge Advocate, Room 230, Thayer Hall, upon presentation of this certificate.
5. You may consult with counsel at any time--before, after, or during questioning. Counsel, civilian or military, may not be present during questioning by a Cadet Investigator or a Sub-Committee. If you elect to do so, you may stop the questioning or cease making your statement at any time for any reason.

I have read and understand these rights.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed/Typed Name

\_\_\_\_\_  
Co.

\_\_\_\_\_  
Class



I have read this RIGHTS FORM to Cadet \_\_\_\_\_  
 Printed/Typed Name

\_\_\_\_\_, on \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ hours.  
 Co. Class Date Time

\_\_\_\_\_  
 Signature Date

\_\_\_\_\_  
 Printed/Typed Name Co.

I have witnessed the reading of this RIGHTS FORM to Cadet \_\_\_\_\_  
 Printed/Typed Name

\_\_\_\_\_, by Cadet \_\_\_\_\_, \_\_\_\_\_  
 Co. Class Printed/Typed Name Co.

\_\_\_\_\_, on \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ hours.  
 Class Date Time

\_\_\_\_\_  
 Signature Date

\_\_\_\_\_  
 Printed/Typed Name

\_\_\_\_\_  
 Co. Class



The following is an example of a letter which will be sent to the accused cadet a minimum of three working days prior to the Sub-Committee. One copy will be added to the file.

SUBJECT: Convening of Sub-Committee Hearing

DATE \_\_\_\_\_

TO: Cadet \_\_\_\_\_  
Company \_\_\_\_\_  
Class of \_\_\_\_\_  
United States Corps of Cadets

1. A Sub-Committee has been formed to meet on \_\_\_\_\_  
at \_\_\_\_\_ hours in the \_\_\_\_\_. The uniform for the  
Sub-Committee is \_\_\_\_\_.

A Sub-Committee is formed to determine if there are reasonable grounds to believe that an honor violation has been committed by the accused cadet and to recommend whether a Full Honor Board should hear the facts and make a final decision on the allegation. A Sub-Committee is not formed to determine guilt or innocence.

2. The Sub-Committee will investigate the following allegation:  
(Give general nature of allegation)  
\_\_\_\_\_  
\_\_\_\_\_

3. You have the right to consult with legal counsel as set forth in the Rights of the Accused Form, Annex C, Cadet Honor Committee Procedures, a copy of which is attached herein.

4. You will report to \_\_\_\_\_ ten minutes prior to the above stated time.

5. If you have any questions, contact me in Room \_\_\_\_\_ or at telephone number \_\_\_\_\_.

\_\_\_\_\_  
REGIMENTAL HONOR REPRESENTATIVE

\_\_\_\_\_  
Co.

\_\_\_\_\_  
Class

1 Incl  
as



SUBJECT: Convening of Sub-Committee Hearing      DATE: \_\_\_\_\_

Name \_\_\_\_\_

Company or Department

USCC or USMA

1. The Cadet Honor Committee has formed a Sub-Committee to meet on \_\_\_\_\_ at \_\_\_\_\_ hours, in the \_\_\_\_\_ to investigate \_\_\_\_\_

2. A Sub-Committee is convened to determine if there are reasonable grounds to believe that an honor violation has been committed by the accused cadet and to recommend whether a Full Honor Board should hear the facts and make a final decision on the allegation.

3. You will report to \_\_\_\_\_ five minutes prior to the above stated time. (See note below) The uniform for the Subcommittee is \_\_\_\_\_.

4. If you have any questions, contact me at the number listed below.

## REGIMENTAL HONOR REPRESENTATIVE

Co.

Class

Room #

Telephone #

Note: Paragraph 3 as illustrated will be used for cadet witnesses. If a member of the Staff and Faculty is requested as a witness, paragraph 3 will read: "The uniform for cadets at this Sub-Committee Hearing is \_\_\_\_\_. We request that you wear a (Army Green) (Army Tans) \_\_\_\_\_ and that you arrive at \_\_\_\_\_ five minutes prior to the scheduled starting time.



4. The following witnesses are expected to testify in support of the allegations against you:

---

---

---

---

5. You will report to \_\_\_\_\_ fifteen minutes prior to the above stated time. The uniform for the Full Board is \_\_\_\_\_.

6. Sign the acknowledgment set forth below and return the original to the undersigned.

\_\_\_\_\_  
NAME

\_\_\_\_\_  
RANK

\_\_\_\_\_  
POSITION

Room # \_\_\_\_\_  
Telephone # \_\_\_\_\_

Receipt of the foregoing notice of a Full Honor Board proceeding is hereby acknowledged.

\_\_\_\_\_  
NAME

\_\_\_\_\_  
Co.                      Class



ANNEX G

The following is an example of the letter which will be sent to all witnesses who are to appear before a Full Honor Board. A copy of each will be added to the suspect's file.

SUBJECT: Convening of Full Honor Board      DATE: \_\_\_\_\_

TO: \_\_\_\_\_  
Name

\_\_\_\_\_  
Company or Department  
USCC or USMA

1. A Full Honor Board will conduct a hearing at \_\_\_\_\_ hours,  
on \_\_\_\_\_ in \_\_\_\_\_ to investigate the following  
alleged violation(s) of the Cadet Honor Code:  
(Provide specific allegation(s))  
\_\_\_\_\_  
\_\_\_\_\_

2. You will report to \_\_\_\_\_ fifteen minutes prior to  
the above stated time. (See note below) The uniform for a Full Honor  
Board is \_\_\_\_\_.

3. If you have any questions, please contact me.

Name \_\_\_\_\_  
Cadet \_\_\_\_\_  
Position \_\_\_\_\_  
Room # \_\_\_\_\_  
Phone # \_\_\_\_\_

Note: Paragraph 3 as illustrated will be used for cadet witnesses. If a member of the Staff and Faculty is requested as a witness, paragraph 3 will read, "The uniform for cadets at the Full Honor Board is \_\_\_\_\_. We request that you wear (Army Green)(Army Tans) and that you arrive at \_\_\_\_\_ fifteen minutes prior to the scheduled starting time.



ANNEX H

The following is an example of the memorandum which will be sent to prospective Board members and alternates informing them that they are scheduled to sit on a Full Honor Board.

Suspense \_\_\_\_\_  
Date \_\_\_\_\_

MEMORANDUM FOR: CADET \_\_\_\_\_  
Company \_\_\_\_\_, Class of \_\_\_\_\_

SUBJECT: Full Honor Board

1. You are scheduled to be a member (alternate member) of a Full Honor Board.
2. This Board will convene on \_\_\_\_\_, at \_\_\_\_\_ hours in the \_\_\_\_\_. You will be present ten minutes prior to the above stated time. The uniform for the Board is \_\_\_\_\_.
3. You are required to confirm with me that you will be present for the Board. Call or contact me not later than the suspense date shown above.

\_\_\_\_\_  
Cadet \_\_\_\_\_  
Secretary  
Cadet Honor Committee

Phone # \_\_\_\_\_  
Room # \_\_\_\_\_



SUGGESTED PROCEDURES FOR FULL HONOR BOARDS

President: This hearing will come to order. (Respondent's name), this is a Full Honor Board called to determine \_\_\_\_\_.

President: (Respondent's name), you may, if you desire, employ civilian counsel at your own expense for this hearing. Do you have such counsel? You may request military counsel of your own choice, who will be furnished if reasonably available, or you may request that the appointing authority designate military counsel for you.

Respondent: Yes (No).

NOTE: If Respondent answers "yes," the hearing should be adjourned and the appointing authority should be requested to appoint counsel for respondent, preferably one of his own choosing. If Respondent answers "no," the Board may still feel obliged to report absence of counsel to the appointing authority if the issues are grave enough. If counsel is supplied, a proper entry of identification should appear here and a showing of any adjournments incident thereto.

NOTE: During the hearing, the Recorder will comply with the requirements of paragraph 6b, AR 15-6.

NOTE: A reporter and an interpreter, if used, will be sworn.

Recorder: The reporter will be sworn.

Recorder: You swear (or affirm) that you will faithfully perform the duties of reporter to this board. So help you God.

Reporter: I do.

Recorder: The interpreter will be sworn.

Recorder: You swear (or affirm) that you will faithfully perform the duties of interpreter in the case now in hearing. So help you God.

Interpreter: I do.

Recorder: The Board is appointed by paragraph \_\_\_\_\_, Special Orders No \_\_\_\_\_, Headquarters, \_\_\_\_\_ dated \_\_\_\_\_ 19\_\_\_\_\_  
(The order is then read aloud by the Recorder).



Recorder: The following members of the Board are present: A 34

Present: \_\_\_\_\_  
Absent: \_\_\_\_\_

NOTE: All personnel of the board, including the recorder and counsel, if any, should be accounted for as present or absent at each session.

Recorder: Request that appointing order to be attached to these proceedings and marked "Exhibit A."

President: The appointing order will be attached to the board proceedings and marked as requested.

Recorder: The general nature of the hearing is to inquire into the following alleged violation of the Cadet Honor Code:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Legal Advisor: You are reminded that the accused cadet is under no obligation to make any statements or answer any questions. If the accused cadet elects to remain silent no adverse inference may be drawn from his silence.

President: Does the respondent desire to challenge any member of the Board for cause?

Respondent: (Counsel): No (The respondent challenges \_\_\_\_\_ for cause on the ground \_\_\_\_\_.)

Recorder: The Board will be sworn.

NOTE: Recorder swears board The Legal Advisor then swears recorder. The recorder then swears the Legal Advisor.

NOTE: All persons in the room stand up while the oath is administered to the Board and to the recorder. Each Board member raises his right hand and his name is called by the recorder in administering the following oath:

NOTE: When the recorder has called all the members of the board by name, he continues.



Recorder: Do swear (or affirm) that you will faithfully perform all the duties incumbent upon you as a member of this Board; that you will faithfully and impartially examine and inquire, accordingly to the evidence, your conscience, and the laws and regulations provided, into the matter now before you without partiality, favor, affection, prejudice, or hope of reward; that you will find such facts as are supported by substantial evidence of record; that in determination of those facts which are in dispute or are difficult of proof, you will use your professional knowledge and best judgment and common sense in weighing the evidence, considering the probability or improbability thereof, and with this in mind will regard as established facts those which are supported by evidence deemed most worthy of belief; and that you will make such findings and recommendations as are appropriate to, warranted by, and consistent with your findings, according to the best of your understanding of the rules and regulations for the government of the Army, Department of the Army policies, and the customs of the service, guided by your concept of justice, both to the government and to individuals concerned. So help you God.

Each Member of the Board: I do.

NOTE: The board members lower their hands but remain standing while the oath is administered by the Legal Advisor to the Recorder.

Legal            You, \_\_\_\_\_, do swear (or affirm) that you will faithfully  
Advisor:       perform the duties and functions of Recorder of this Board. So  
                 help you God.

Recorder: I do.

NOTE: All personnel now resume their seats.

Recorder: Does any member of the Board desire to be advised as to the law, regulations, or orders concerned in this hearing?

Such requests should, in general, be granted, unless the interrogation is superfluous in scope.

NOTE: When questions are concluded, the President announces--

President: The witness is excused.



NOTE: The proceedings should indicate that witnesses, other than Respondent, withdrew.

NOTE: Unless expressly excused from further attendance during the hearing, all witnesses will remain subject to call or recall until the proceedings have been concluded. When a witness is recalled, the Recorder reminds such witness, after he has appeared--

Recorder: You are reminded that you are still under oath.

NOTE: The procedure in the case of a witness called by the Board is the same as outlined above.

Recorder: There is nothing further to offer relating to the matter under consideration.

Respondent: (Counsel): The respondent has (no) opening statement.

NOTE: The Respondent introduces his stipulations, witnesses, and documentary evidence, following the procedure indicated above for the Recorder; the Recorder administers the oath to all witnesses and asks the first two formal questions.

NOTE: Should the Respondent be called to the stand as a witness, the Recorder will administer the oath and ask the following preliminary questions, after which the procedure follows that of other witnesses.

Recorder: State your name, rank (grade), service number, branch of service, organization, and station.

Respondent: \_\_\_\_\_.

Recorder: Are you the respondent in this case?

Respondent: Yes.

NOTE: When the Respondent has concluded his case he announces--

Respondent: (Counsel): The respondent rests.

President: No readings are desired at this time (or statement of what is desired).

Recorder: The recorder and the accused cadet have agreed to stipulate  
\_\_\_\_\_.



NOTE: Prior to acceptance of the stipulation, the President, by questions, should determine that Respondent joins in the stipulation.

President: The stipulation is (not) accepted, and will be marked "Exhibits \_\_\_\_\_."

Recorder: (Respondent), you were notified of this hearing on \_\_\_\_\_ 19 \_\_\_\_.

NOTE: At this time, Recorder offers in evidence a copy of the letter of notification and requests it be attached to the proceedings and marked "Exhibit \_\_\_\_\_."

President: The copy of letter of notification will be attached to the proceedings and marked as requested.

President: (Respondent), you have the right to cross-examine all witnesses brought before this hearing. It is our desire to ascertain the truth of all matters, and we shall be glad to help you question any witnesses when such questioning might shed a true light on the facts of the case. Do you understand your right of cross-examination?

Respondent: I do.

President: (Recorder), you will now read all the documentary evidence to be considered in this matter, and the statements of any witnesses who are unable to appear in person.

NOTE: The Recorder presents the evidence and examines the witnesses so as to make as complete and impartial presentation of the evidence on both sides as is possible.

Recorder: The first witness to be called is \_\_\_\_\_.

NOTE: The Recorder, under the direction and supervision of the President, presents witnesses called by him in the order desired. He conducts direct examination of each witness. Respondent or his counsel cross-examines each witness after completion of the direct examination. Members of the Board question witnesses last, after direct and cross-examination.

NOTE: A witness, when he enters the room, will raise his right hand and thereafter the Recorder administers the oath.



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NOTE: Whenever it appears appropriate and advisable to do so, the rights of a witness under the Uniform Code of Military Justice, Article 31, or the 5th Amendment of the Constitution of the United States, may be explained to him.

Recorder: You swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God.

Witness: I do.

NOTE: The witness now takes his seat in the witness chair. The first two questions asked every witness are asked by the Recorder whether the witness be called by him (the Board) or by the Respondent.

Recorder: State your full name and (rank (grade), service number, branch of service, organization and station) or (occupation and residence.)

Recorder: Do you know the respondent? If so, what is his name?

NOTE: If the witness states that he knows the Respondent, normally he will be asked to point to the Respondent if he sees him in the room.

NOTE: Questions should be propounded to develop the matter under consideration.

Recorder: The recorder has no further questions.

Respondent: (Counsel): The respondent has no (further) questions.

NOTE: If the Respondent cross-examines the witness, the Recorder may conduct a redirect examination.

Recorder: Are there any questions by the Board?

NOTE: Any Board member wishing to question the witness first secures the permission of the President.

NOTE: If either the recorder or the Respondent wishes to ask further questions of the witness after his examination has been turned over to the Board, permission of the Board should be secured.

Recorder: There is no further evidence to offer in this hearing. Does the Board wish to have any witnesses called or recalled?



President: It does (not) .

Recorder: Opening argument is waived .

NOTE: The Recorder has the right to make the opening argument, and, if any argument is made on behalf of the Respondent, the closing argument. Arguments are not required. If no oral arguments are made, Respondent and Recorder continue--

Respondent: (Counsel): The respondent submits the case without comment.

Recorder: The recorder submits the case without comment.

President: Has the recorder anything further to offer?

Respondent: (Counsel): I have (not) .

NOTE: At the conclusion of the hearing the voting members of the Board will receive appropriate instructions from the Legal Advisor. See Annex J, Suggested Pre-deliberation Instructions by Legal Advisor.

President: The hearing is now closed.

NOTE: The conclusion of the hearing does not end the duties of the Board. It must then enter into closed session. (It is then the duty of the Board to arrive at findings based upon the evidence heard, and make recommendations justified by that evidence. Thereafter, the Recorder is responsible for compiling the report of proceedings (para 24) and submitting properly authenticated copies thereof to the appointing authority (para 6c). Immediately after deliberation and voting, the hearing will be reopened and the President will announce the findings. (This is normally read from a findings worksheet prepared by the Recorder.)



SUGGESTED PRE-DELIBERATION INSTRUCTIONS BY LEGAL ADVISOR:

The following are suggested guidelines for instructions to be given by the Legal Advisor to the voting members of a Full Honor Board at the conclusion of the hearing but prior to their deliberations:

1. Define what constitutes a violation of the Honor Code:

The Cadet Honor Code states that "a cadet will not lie, cheat, or steal, nor tolerate those who do."

There are two criteria which an act must meet to be a violation:

- a. the accused cadet must have lied, cheated, stolen, or tolerated such action on the part of a cadet; and
- b. the accused cadet must have had the intent to lie, cheat, steal, or tolerate such action on the part of a cadet.

2. Restate the alleged honor violation;

3. Instruct the Board members that the Respondent at no stage is under any obligation to make any statements or answer any questions and that if he elects to remain silent throughout the entire investigation and subsequent proceedings, no adverse inference may be drawn from his silence.

4. Instruct the Board members that no adverse inference is to be drawn from the fact that the case has been referred to a Full Honor Board.

5. Instruct the Board members that the standard of proof required for a finding of guilty is substantial evidence defined as such evidence as a reasonable mind can accept as adequate to support a conclusion. A finding of guilty must be supported by substantial evidence both that the facts of the alleged act are true, and that the Respondent had the requisite intent to lie, cheat, steal, or tolerate those who do;

6. Instruct the Board members that they are to meet in closed session to deliberate and vote by secret written ballot, with a finding of guilty requiring the vote of ten of twelve Board members; and

7. Give additional instructions, as appropriate.



AFFIDAVIT OF MAILING

State of New York                    )  
County of New York                 )       ss

Marian J. Bryant being duly sworn,  
deposes and says that she is employed in the Office of the  
United States Attorney for the Southern District of New York.

That on the  
12th day of January, 1977 she served a copy of the  
 within Govt's Supplemental Appendix

by placing the same in a properly postpaid franked envelope addressed:

Edward S. Gallian, Esquire  
Siller & Gallian  
370 Lexington Avenue  
New York, New York 10017

And deponent further says s he sealed the said envelope and placed the same in the mail chute drop for mailing in the United States Courthouse Annex, One St. Andrews Plaza, Borough of Manhattan, City of New York.

Sworn to before me this

Marion L. Bryant

12th day of January, 1977

**PAULINE P. TROIA**  
Notary Public, State of New York  
No. 31-4632381  
Qualified in New York County  
Commission Expires March 30, 1978